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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/619,534

07/16/2003

Joseph Smith

7495

7590  
Dr. Joseph Smith  
1921 So. Club Drive  
Wellington, FL 33414

01/04/2008

EXAMINER

LEWIS, KIM M

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

01/04/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Interview Summary

**Application No.**

10/619,534

**Applicant(s)**

SMITH, JOSEPH

**Examiner**

Kim M. Lewis

**Art Unit**

3772

All participants (applicant, applicant's representative, PTO personnel):

(1) Kim M. Lewis. (3)\_\_\_\_\_.

(2) Joseph Smith. (4)\_\_\_\_\_.

Date of Interview: 29 November 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.  
If Yes, brief description: \_\_\_\_\_.

Claim(s) discussed: N/A.

Identification of prior art discussed: N/A.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: As per our telephone interview, here are the copies of the office actions and application information from 10/619534 and 10/932357.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

  
Examiner's signature, if required



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,534	07/16/2003	Joseph Smith		7495
7590 Dr. Joseph Smith 1921 So. Club Drive Wellington, FL 33414		03/20/2007	EXAMINER LEWIS, KIM M	
			ART UNIT 3772	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	03/20/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

68

<b>Office Action Summary</b>	Application No. 10/619,534	Applicant(s) SMITH, JOSEPH	
	Examiner Kim M. Lewis	Art Unit 3772	

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address -  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input checked="" type="checkbox"/> Other: <u>Detailed Action</u> .                  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because the sheet of drawings has a figure that is not labeled. Also, the applicant fails to point out or distinguish the
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 1 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a pressure concentrating means comprising a plurality of overlapping cylinder like shapes, does not reasonably provide enablement for a composite of overlapping cylinder like shapes and at least one pressure concentrating means since they are one in the same. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. Applicant's attention is directed to the last paragraph of page 4.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As regards claim 1, "the brace" lacks antecedent basis. Also, the phrase "cylinder-like" is indefinite in that it is unclear what the shape of the overlapping components are.

8. Claims 1-5 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure, which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,532,037 ("Cahill").

As regards claim 2, Cahill discloses a device that is capable of being placed in clothing (*i.e.*, worn underneath a jacket) that offers an enhanced support and comfort to individuals in the upper back area.

11. Claims 3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,535,495 ("Oldfield").

As regards claim 5, Oldfield discloses a back rest cushion that is anatomically configured to a seat or chair that provides increase focal support to the lumbar spine aiding to an enhanced comfort and stability (note col. 2, lines 64-66 and col. 3, lines 23-28).

The device of Oldfield is also an adaptable, ergonomically designed pillow for support and comfort for the head and neck while sleeping, and supports the low back when used on a chair or seat at home, in the car, or at work.

12. Claim 4 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. D401,758.

As regards claim 4, Cook discloses a padded sock (a design) that provides increased focal support in the arch of the foot inferiorly and posteriorly of the foot.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (571) 272-



4796. The examiner can normally be reached on Monday to Friday, from 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco, can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

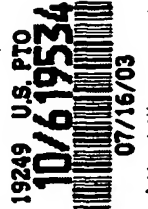


Kim M. Lewis  
Primary Examiner  
Art Unit 3772

kml  
March 17, 2007

This Utility / Design Patent Application is a continuation in part of applications ##

09/798,209 and 10/227,654 and 29/155,536 and 29/169,637.



## TITLE OF THE INVENTION

*Anatomically Configured Device*

*For Orthopedic Support of the Body*

## BACKGROUND OF THE INVENTION

1. *Field of the Invention* – This invention relates to an article of manufacture. More specifically, this invention is directed to a device and method for supporting an articulating joint, joints, and / or body part (e.g. wrist, ankle, elbow, knee, low back, full body, upper back, foot, and back of the neck and head). In the preferred embodiments of this invention, the device comprises spherically, round and / or oval (like) overlapping cylinder like shapes placed in braces, clothing, and footwear, designed as a pillow, and placed in a seat or furniture for orthopedic support.

2. *Description of the Prior Art* – The human body may be injured by strains, contusions, bruises, degenerative joint diseases, arthritis, and arthroscopic operations. Such injuries may cause hematomas and inflamed areas that need to be treated. In such cases, it has been found advantageous to apply a compress of some type to the injured area to effect more rapid healing, or prevent any further inflammation or injury. Typically, support for the joints can be provided with an *Ace* bandage wrap, or an anatomically configured tubular device. The anatomically configured tubular device can have an opening in the device at the heel, to permit greater of lesser degree of movement of the ankle. Similarly, a wrist support may include a sleeve having one or more finger or thumb loops to prevent relative movement (creep) of the support on the wrist while in use.

A number of patents have been disclosed in the patent literature which discloses various devices for support or treatment of a weakened or injured articulating joint. The following patents are discussed in chronological order and, thus, no significance is to be attached to their order of discussion.

### **OBJECTS OF THE INVENTION**

It is the object of this invention to remedy the above as well as related deficiencies in the prior art.

More specifically, it is the principal object of the present invention to provide an anatomically configured device for pressure support of an articulating joint, joints or body fitted part.

It is another object of this invention to provide an anatomically configured device for pressure support of an articulating joint, joints or body fitted part, which may stretch inferior, superior, medial and lateral.

It is yet another object of this invention to provide an anatomically configured device of material within a brace, clothing, footwear, as a pillow, a seat for concentrated pressure 360° support of an articulating joint, joints or body fitted part.

### **SUMMARY OF THE INVENTION**

The above and related objects are achieved by providing a device made of overlapping cylinder like shapes giving an enhanced 360° support over the joint, joints and / or body part in question within the brace, clothing, footwear, seats, as a pillow, which may stretch in four directions for pressure support of an ankle, elbow, knee, wrist, low back, full body, upper back, and / or neck and head. The device of this invention can include an anatomically configured device, which is used in one or more areas of the brace,

clothing, footwear, seat, used as a pillow, etc., providing a 360° support, so as to focus or concentrate pressure support at the inferior, superior, medial and lateral points.

In the preferred embodiments of this invention, the pressure concentrating means of the composite comprises a delimited area having a plurality of cylinder like shapes of materials that could have relatively greater stretch resistance and / or support, than other devices used for orthopedic support. For example, in the case of a device for support of a wrist, the pressure concentrating means can be located either on the device just forward of the wrist on either the palm or backside of the hand.

In another of the preferred embodiments of this invention, the composite device of this invention can include one or multiple delimited areas of a brace, clothing, footwear, seat, or as a pillow with a concentrating 360° support for support to the body. For example, in the case of a device for pressure support of the ankle, the pressure support means are typically positioned to both support the Achilles tendon and the plantar of the foot.

The device of this invention can also be provided in the form of overlapping cylinder like shapes providing a 360° support on a brace, clothing, footwear, seat, or as a pillow.

### **BRIEF DESCRIPTION OF THE DRAWINGS**

Fig. 1 is a perspective view of the full body support of this invention.

Fig.2 is a perspective view of a Sports Bra device of this invention.

Fig.3 is a perspective view of a pillow device of this invention.

Fig.4 is a perspective view of footwear with the device of this invention.

Fig.5 is a perspective view of a car seat with the support device of this invention.

## **DETAILED DESCRIPTION OF THE INVENTION INCLUDING PREFERRED EMBODIMENTS**

The Figures which accompany this application, and referenced herein, depict representative embodiments of this invention. In each instance, the composite comprises layers of material with overlapping cylinder like shapes providing 3-D, 360° support having concentrated pressure support means locations for pressure support in braces, clothing, footwear, pillows and / or seats. The layers of material can be anatomically placed at a particular location of the body, providing 3-D, 360° support within a brace, and may also stretch in four directions.

In Fig.1, the devices of this invention are preconfigured in an anatomical position suitable to support the upper and low back.

Similarly, in Fig.2, the device is preconfigured in an anatomical position suitable to support the upper back as it is integrated in a pullover sports bra. This device supports the upper dorsal area.

Fig.3 illustrates the adaptation of the concepts of this invention to a device as a cervical / lumbar pillow that is anatomically configured suitable for support of the neck posteriorly, laterally, as well as low back posteriorly.

Fig.4 illustrates the concept of this invention and the placement of these two designs for support and protection of the arch of the foot inferiorly and the ankle of the foot posteriorly.

Fig.5 illustrates the concept of this device being integrated in a car seat to provide the lumbar support and comfort.

The pressure concentrating means depicted in each of the foregoing devices comprises a plurality of overlapping cylinder like shapes of material that may have greater stretch resistance than the material of the object they are placed in.

In each case, the combined effect of the pressure concentrating means and the material of the devices providing 3-D, 360° support at specific areas of the devices of this invention is to lend additional support or focused pressure to the brace, clothing, footwear, pillow, and / or seat at one or more locations.

<b>Notice of References Cited</b>	Application/Control No. 10/619,534	Applicant(s)/Patent Under Reexamination SMITH, JOSEPH	
	Examiner Kim M. Lewis	Art Unit 3772	Page 1 of 1

**U.S. PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-D401,758	12-1998	Huff, Frances M.	D2/986
*	B	US-1,532,037	03-1925	EMETT CAHILL ROBERT	2/463
*	C	US-4,535,495	08-1985	Oldfield, Peter M.	297/452.32
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

**FOREIGN PATENT DOCUMENTS**

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

**NON-PATENT DOCUMENTS**

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

This Utility / Design Patent Application is a continuation in part of applications ##

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2. *Description of the Prior Art* – The human body may be injured by strains, contusions, bruises, degenerative joint diseases, arthritis, and arthroscopic operations. Such injuries may cause hematomas and inflamed areas that need to be treated. In such cases, it has been found advantageous to apply a compress of some type to the injured area to effect more rapid healing, or prevent any further inflammation or injury. Typically, support for the joints can be provided with an *Ace* bandage wrap, or an anatomically configured tubular device. The anatomically configured tubular device can have an opening in the device at the heel, to permit greater of lesser degree of movement of the ankle. Similarly, a wrist support may include a sleeve having one or more finger or thumb loops to prevent relative movement (creep) of the support on the wrist while in use.



A number of patents have been disclosed in the patent literature which discloses various devices for support or treatment of a weakened or injured articulating joint. The following patents are discussed in chronological order and, thus, no significance is to be attached to their order of discussion.

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clothing, footwear, seat, used as a pillow, etc., providing a 360° support, so as to focus or concentrate pressure support at the inferior, superior, medial and lateral points.

In the preferred embodiments of this invention, the pressure concentrating means of the composite comprises a delimited area having a plurality of cylinder like shapes of materials that could have relatively greater stretch resistance and / or support, than other devices used for orthopedic support. For example, in the case of a device for support of a wrist, the pressure concentrating means can be located either on the device just forward of the wrist on either the palm or backside of the hand.

In another of the preferred embodiments of this invention, the composite device of this invention can include one or multiple delimited areas of a brace, clothing, footwear, seat, or as a pillow with a concentrating 360° support for support to the body. For example, in the case of a device for pressure support of the ankle, the pressure support means are typically positioned to both support the Achilles tendon and the plantar of the foot.

The device of this invention can also be provided in the form of overlapping cylinder like shapes providing a 360° support on a brace, clothing, footwear, seat, or as a pillow.

#### **BRIEF DESCRIPTION OF THE DRAWINGS**

Fig. 1 is a perspective view of the full body support of this invention.

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The Figures which accompany this application, and referenced herein, depict representative embodiments of this invention. In each instance, the composite comprises layers of material with overlapping cylinder like shapes providing 3-D, 360° support having concentrated pressure support means locations for pressure support in braces, clothing, footwear, pillows and / or seats. The layers of material can be anatomically placed at a particular location of the body, providing 3-D, 360° support within a brace, and may also stretch in four directions.

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Similarly, in Fig.2, the device is preconfigured in an anatomical position suitable to support the upper back as it is integrated in a pullover sports bra. This device supports the upper dorsal area.

Fig.3 illustrates the adaptation of the concepts of this invention to a device as a cervical / lumbar pillow that is anatomically configured suitable for support of the neck posteriorly, laterally, as well as low back posteriorly.

Fig.4 illustrates the concept of this invention and the placement of these two designs for support and protection of the arch of the foot inferiorly and the ankle of the foot posteriorly.

Fig.5 illustrates the concept of this device being integrated in a car seat to provide the lumbar support and comfort.

The pressure concentrating means depicted in each of the foregoing devices comprises a plurality of overlapping cylinder like shapes of material that may have greater stretch resistance than the material of the object they are placed in.

In each case, the combined effect of the pressure concentrating means and the material of the devices providing 3-D, 360° support at specific areas of the devices of this invention is to lend additional support or focused pressure to the brace, clothing, footwear, pillow, and / or seat at one or more locations.

### **WHAT IS CLAIMED IS:**

1. The device placed in the full body support (Fig.1) provides pressure support in the upper dorsal and low back / lumbar areas.

The device comprises a composite of overlapping cylinder like shapes within the brace and at least one pressure concentrating means located at a pre-designated areas on the device, the pressure concentrating means comprising at least one component which when combined with the brace, lends additional and / or enhanced support or focused pressure at one or more locations on the device where the pressure concentrating means are located.

2. The device placed in clothing (Fig.2) offers an enhanced support and comfort to individuals in the upper back areas.

3. The device when used as a pillow support (Fig.3) provides an adaptable, ergonomically designed pillow for support and comfort for the head and neck while sleeping, and supports the low back when used on a chair or seat at home, in the car, or at work.

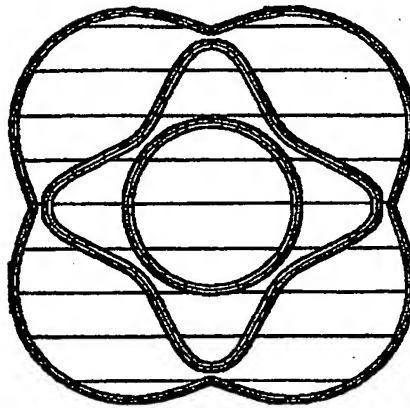
4. The design when anatomically configured to the footwear (Fig.4) provides increased focal support in the arch of the foot inferiorly and ankle of the foot posteriorly.

5. The design when anatomically configured to the seat (Fig.5) or chair provides increased focal support to the lumbar spine aiding to an enhanced comfort and stability.

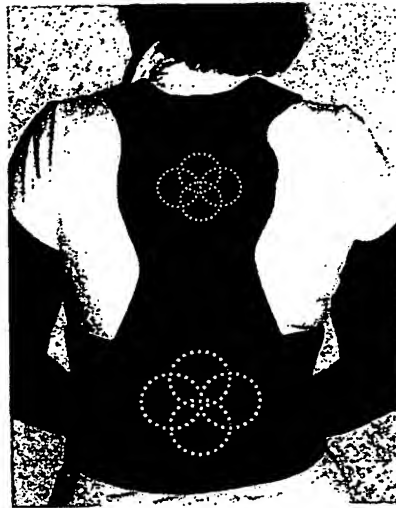
### **ABSTRACT OF DISCLOSURE**

Our device is made of different materials that may stretch in four directions, aiding in support and comfort. The overlapping cylinder like shapes provide 3-D, 360° support to the anatomical area to which they are placed.

# Drawing Page Device



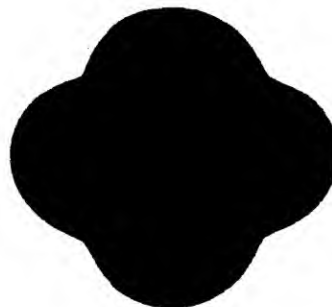
**Figure 1.**  
**Full Body Support**



**Figure 2.**  
**Sports Bra**

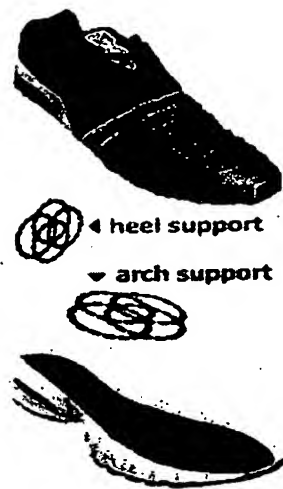


**Figure 3.**  
**Pillow**





**Figure 4.**  
**Footwear**



**Figure 5.**  
**Seat**

